

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

United States of America,

Criminal No. 23-310(1) (DWF/DJF)

Plaintiff,

v.

**ORDER ADOPTING REPORT  
AND RECOMMENDATION**

Mario Lazaro Santos-Hunter,

Defendant.

**INTRODUCTION**

Defendant Mario Lazaro Santos-Hunter moves to dismiss his indictment. (Doc. No. 19.) In a Report and Recommendation (“R&R”), Magistrate Judge Dulce J. Foster recommended denying the motion. (Doc. No. 42.) Santos-Hunter filed an objection to the R&R. (Doc. No. 46.) After an independent review of the record and objection, the Court adopts the Magistrate Judge’s R&R.

**DISCUSSION**

The Court has conducted a *de novo* review of the record, including a review of the arguments and submissions of counsel, pursuant to 28 U.S.C. § 636(b)(1) and Local Rule 72.2(b). The relevant factual and procedural background for the above-entitled matter is clearly and precisely set forth in the Magistrate Judge’s R&R and is incorporated by reference.

Santos-Hunter argues that 18 U.S.C. § 922(g)(1) is unconstitutional on its face and as applied to him in violation of the Second Amendment. The R&R correctly concluded

that the Eighth Circuit has foreclosed this argument. In *United States v. Jackson*, 69 F.4th 495, 501-02 (8th Cir. 2023), the Eighth Circuit “concluded that there is no need for felony-by-felony determinations regarding the constitutionality of § 922(g)(1) as applied to a particular defendant. The longstanding prohibition on possession of firearms by felons is constitutional.” *United States v. Cunningham*, 70 F.4th 502, 506 (8th Cir. 2023). The Court is bound by this Eighth Circuit precedent. The Court therefore adopts the Magistrate Judge’s R&R and denies Santos-Hunter’s motion to dismiss the indictment.

### **ORDER**

Based upon the foregoing, and the files, records, and proceedings herein, **IT IS HEREBY ORDERED** that:

1. Santos-Hunter’s objection (Doc. No. [46]) to Magistrate Judge Dulce J. Foster’s January 5, 2024, Report and Recommendation is **OVERRULED**.
2. Magistrate Judge Dulce J. Foster’s January 5, 2024, Report and Recommendation (Doc. No. [42]) is **ADOPTED**.
3. Santos-Hunter’s motion to dismiss the indictment (Doc. No. [19]) is **DENIED**.

Dated: March 7, 2024

s/Donovan W. Frank  
DONOVAN W. FRANK  
United States District Judge